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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 DONNA GARCIA, No. C-11-1253 EMC
9 Plaintiff,

10 v. **ORDER TO SHOW CAUSE**

11 RESURGENT CAPITAL SERVICES, LP, *et al.*,
12 Defendants

15 Defendants' motion for summary judgment came on for hearing on March 23, 2012. In its
16 submissions to the Court and at oral argument, Defendant Brachfeld's counsel represented to the
17 Court that it was retained to collect a debt Plaintiff owed stemming from her purchase of a freezer
18 from Sears in 2004. *See* Birdt Decl., Docket No. 79, ¶ 7. However, counsel has failed to provide
19 **any** factual basis to demonstrate that Brachfeld was indeed retained to collect said debt. Indeed,
20 counsel represented at oral argument that Plaintiff's Sears receipt provided the necessary connection
21 between her freezer purchase and Brachfeld's debt collection activities. However, the only evidence
22 in the record indicates that Plaintiff's freezer purchase of \$639.86 does not match the \$921.83 due
23 on the debt for which Defendants state they were trying to collect. *Compare id.* Ex. C (2004 Sears
24 freezer purchase for \$639.86), *with* Wilcox Decl., Docket No. 85, Ex. 8 (Brachfeld's paperless notes
25 indicating that the principal debt incurred was \$921.83). The Court is unable to locate any evidence
26 in the record to support counsel's claim that Brachfeld's debt collection activities are related to the
27 freezer purchase.

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1 Accordingly, Defendant Brachfeld's counsel is ordered to show cause why counsel should
2 not be sanctioned for making factual contentions without evidentiary support as required by Rule
3 11(b). Counsel is directed to provide the Court with any and all evidence supporting its contention
4 that "Brachfeld was hired to collect the consumer credit account opened by Plaintiff and which she
5 used to purchase the freezer, but never paid for it," Birdt Decl. ¶ 7, and its related contentions at oral
6 argument that Brachfeld's debt collection efforts stemmed from the freezer purchase. A response to
7 this order to show cause must be filed by April 13, 2012.

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IT IS SO ORDERED.

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11 Dated: April 4, 2012

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EDWARD M. CHEN
United States District Judge

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